

REMARKS

Applicants appreciate the Examiner's review of the present application and respectfully request reconsideration based on the following remarks. Claims 1-18 as originally filed are pending in the present application.

Rejections under 35 U.S.C. 102

The Examiner has rejected Claims 1-2, 7-9 and 13-15 under 35 U.S.C. 102(e) as being unpatentable over Hurst (U.S. 6038000). Applicants traverse this rejection.

The Examiner states that Hurst discloses "increasing a data rate of said plurality of data streams at a time before an end point of a segment" and refers to Hurst Fig. 2 and Col 11, lines 3-11. Applicants respectfully disagree. Hurst is disclosing flushing a buffer of contents that are not needed (see Col. 11 line 6, where the contents of the synchronization buffer are flushed). This is entirely different from what is recited in Claim 1, wherein the data rate of said plurality of data streams is increased at a time before an end point of a segment. Hurst is not increasing a data rate of a plurality of stream, Hurst is simply throwing away the unused contents of a synchronization buffer. Accordingly, Hurst does not disclose this feature as recited in Claim 1.

The Examiner states that Hurst discloses "providing gaps in said plurality of data streams between said end points and said starting points" at Col. 18 lines 48-60. Applicants respectfully disagree. Hurst is describing leaving audio gaps in spliced video to maintain alignment. Hurst actually introduces an audio mute, see Col. 18 line 53. This certainly is not seamless switching, as disclosed by the present invention. The present invention recites that there are gaps between the plurality of synchronized segments in the data streams. These gaps are what assists the present invention in performing seamless switching, which is not what Hurst discloses. The

present invention allows a switch to seamless switch between any of the prepared data streams. Hurst merely discloses leaving an audio gap in output video to maintain frame alignment.

Accordingly, Hurst does not disclose each and every feature as recited by Claim 1, and Applicants assert that Claim 1 and all claims dependent upon it are allowable.

Regarding Claim 13, the Examiner states that Hurst discloses a system for preparing a plurality of data streams for transmission to allow a receiver receiving said transmitted data streams to seamlessly switch between said transmitted data streams. Applicants disagree. Hurst discloses a splicing system, for splicing video bitstreams, see Col. 2 lines 52-63. Hurst does not disclose preparing streams for transmission so that a receiver can then seamlessly switch between transmitted data streams.

Further, the Examiner states that Hurst does not disclose a content preparation component, a gap creation component, a data rate component, or a trigger insertion component, but that these all would be inherent in order for Hurst to perform. Applicants disagree and traverse this rejection. Hurst is a splicing system, not a system for preparing data streams for a (subsequent) receiver to switch between such data streams, and none of these features are disclosed or inherent in Hurst. Applicants respectfully request the Examiner to provide support for these elements or withdraw the rejection. Applicants assert that Claim 13 and all claims dependent on it are allowable.

The Examiner has rejected Claims 16-18 under 35 U.S.C. 102(b) as being unpatentable over Freeman (U.S. 5724091). Applicants traverse this rejection.

The Examiner states that Freeman discloses wherein a data rate of data streams is increased. Applicants disagree. Freeman discloses changing a **buffer fill/empty rate**, not changing a data rate of a **data stream** that is entering the buffer. See Freeman Col. 14 lines 10-15. The same applies to a data rate of data streams being decreased, Freeman does not disclose

this feature. Freeman discloses changing buffering rates to smooth out the data, see Col. 12 lines 13-20. Freeman does not disclose or anticipate changing the data rate of data streams, and recited in Claim 16. Accordingly, Applicants assert that Claim 16 and all claims dependent upon it are allowable.

Rejections under 35 U.S.C. 103

The Examiner has rejected Claims 3-6 and 10 under 35 U.S.C. 103 as being unpatentable over Hurst (U.S. 6038000) in view of Zhang (U.S. 6611624). Applicants traverse this rejection. As previously described, Claim 1 is allowable, and therefore all claims dependent upon it are also allowable. Further, with regard to Claims 5 and 10, Zhang does not disclose changing the multiplexing for the plurality of streams. Zhang merely discloses re-encoding the streams (which physically changes the contents of the stream), not changing the multiplexing of the streams (which does not affect the contents of the data streams). See Col. 12 lines 3-30.

The Examiner has rejected Claim 11 under 35 U.S.C. 103 as being unpatentable over Hurst by itself. Applicants traverse this rejection. Claim 11 is dependent upon allowable claims, and Applicants assert that it is therefore allowable.

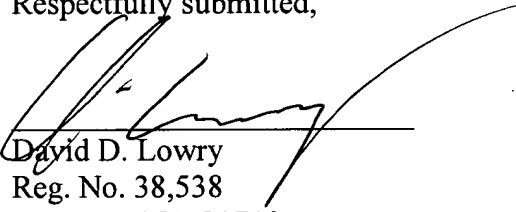
Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below.

In the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 50-0369 therefore.

Dated: 2/3/05

Respectfully submitted,


David D. Lowry
Reg. No. 38,538
Customer No. 21710
Attorney for Applicants

BROWN RUDNICK BERLACK ISRAELS LLP
One Financial Center
Boston, MA 02111
Tel: 1-617-856-8399
Fax: 1-617 856-8201